

SCHEDULES

[^{F1}SCHEDULE AA1

DEPRIVATION OF LIBERTY: AUTHORISATION OF ARRANGEMENTS ENABLING CARE AND TREATMENT

Textual Amendments

- F1** Sch. AA1 inserted (16.5.2019 for specified purposes) by [Mental Capacity \(Amendment\) Act 2019 \(c. 18\)](#), s. 6(3), [Sch. 1](#)

PART 1

INTRODUCTORY AND INTERPRETATION

Responsible body

- 10 (1) In paragraph [6\(1\)\(e\)](#), “responsible local authority”, in relation to a cared-for person aged 18 or over, means—
- (a) if there is an Education, Health and Care plan for the cared-for person, the local authority responsible for maintaining that plan;
 - (b) if there is an individual development plan for the cared-for person—
 - (i) the local authority responsible for maintaining that plan, or
 - (ii) if the plan is not maintained by a local authority, the local authority whose area the cared-for person is in;
 - (c) if neither paragraph (a) nor paragraph (b) applies and the cared-for person has needs for care and support which are being met under Part 1 of the Care Act 2014 or under Part 4 of the [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), the local authority meeting those needs;
 - (d) in any other case, the local authority determined in accordance with sub-paragraph (6).
- (2) If more than one local authority is meeting the needs of a cared-for person for care and support under Part 1 of the Care Act 2014 the responsible local authority is the local authority for the area in which the cared-for person is ordinarily resident for the purposes of that Part of that Act.
- (3) If more than one local authority is meeting the needs for care and support of a cared-for person under the [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), the responsible local authority is the local authority for the area in which the cared-for person is ordinarily resident for the purposes of that Act.
- (4) If the cared-for person is having needs for care and support met under both of the Acts mentioned in sub-paragraph (1)(c), the responsible local authority is the local authority determined in accordance with sub-paragraph (6).

Changes to legislation: There are currently no known outstanding effects for the Mental Capacity Act 2005, Paragraph 10. (See end of Document for details)

- (5) In paragraph 6(1)(e), “responsible local authority”, in relation to a cared-for person aged 16 or 17, means—
- (a) if there is an Education, Health and Care plan for the cared-for person, the local authority responsible for maintaining that plan;
 - (b) if there is an individual development plan for the cared-for person—
 - (i) the local authority responsible for maintaining that plan, or
 - (ii) if the plan is not maintained by a local authority, the local authority whose area the cared-for person is in;
 - (c) if neither paragraph (a) nor paragraph (b) applies and the cared-for person is being provided with accommodation—
 - (i) under section 20 of the Children Act 1989, or
 - (ii) under section 76 of the [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#),
 the local authority providing that accommodation;
 - (d) if none of paragraphs (a) to (c) applies and the cared-for person is subject to a care order under section 31 of the Children Act 1989 or an interim care order under section 38 of that Act, the local authority that is responsible under the order for the care of the cared-for person;
 - (e) if none of paragraphs (a) to (d) applies, the local authority determined in accordance with sub-paragraph (6).
- (6) In the cases mentioned in sub-paragraphs (1)(d), (4) and (5)(e), the “responsible local authority” is—
- (a) if the arrangements provide for the cared-for person to reside in one place, the local authority for the area in which that place is situated;
 - (b) if the arrangements provide for the cared-for person to reside in more than one place, the local authority for the area in which the main place of residence is situated;
 - (c) in any other case, the local authority for the area in which the arrangements are mainly carried out.
- (7) If a building is situated in the areas of two or more local authorities, it is to be regarded for the purposes of sub-paragraph (6) as situated in whichever of the areas the greater (or greatest) part of the building is situated.
- (8) In this paragraph—
- “individual development plan” means a plan within the meaning of section 10 of the [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#).]

Changes to legislation:

There are currently no known outstanding effects for the Mental Capacity Act 2005, Paragraph 10.